

ORIGINALFILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAIIUnited States District Court
for theAPR 29 2008
at 10 o'clock and 45 min. A.M.
SUE BEITIA, CLERK

DISTRICT OF HAWAII

**Request for Modifying the Conditions or Term of Supervision
with Consent of the Offender**

(Probation Form 49, Waiver of Hearing is Attached)

Name of Offender: FOUINA CHARLES TOILOLO aka "Flex"

Case Number: CR 00-00484DAE-04

Name of Sentencing Judicial Officer: The Honorable David Alan Ezra
U.S. District Judge

Date of Original Sentence: 9/16/2002

Original Offense: Count 2: CONSPIRACY TO POSSESS WITH INTENT TO
DISTRIBUTE IN EXCESS OF 50 GRAMS OF
METHAMPHETAMINE, in violation of 21 U.S.C. §§ 841(a)(1) and
846, a Class A felony

Original Sentence: Eighty-four (84) months imprisonment followed by five (5) years of supervised release with the following special conditions: 1) Defendant shall participate in a substance abuse program, which may include drug testing at the discretion and direction of the Probation Office; 2) Defendant is prohibited from possessing any illegal or dangerous weapons; 3) Defendant provide the Probation Office access to any requested financial information; and 4) That the defendant shall submit his person, residence, place of employment, or vehicle to a search conducted by the U.S. Probation Office at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of supervision. Failure to submit to a search may be grounds for revocation. The defendant shall warn any other resident that the premises may be subject to search pursuant to this condition.

Type of Supervision: Supervised Release Date Supervision Commenced: 2/8/2008

PETITIONING THE COURT

[X] To modify the conditions of supervision as follows:

Mandatory Condition: That the defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of the commencement of supervision and at least two drug tests thereafter but no more than 8 valid drug tests per month during the term of supervision.

CAUSE

On 2/8/2008, the subject began his term of supervision under the U.S. Probation Office, District of Hawaii. During his processing, the subject was referred for substance abuse treatment and random drug testing at Hina Mauka, Waipahu, Hawaii. Despite actively participating in all modules of treatment, the subject failed to submit to drug testing on 4/14/2008. The subject subsequently reported to the U.S. Probation Office and submitted a urine specimen that tested negative for illicit substances. He then apologized for his irresponsible behavior and agreed to comply with all treatment requirements.

Pursuant to U.S. vs. Stephens, the Violent Crimes Control Act (VCCA) testing condition imposed at sentencing limits the Probation Office to three non-treatment related drug tests. In order to ensure that the subject does not reinvolve himself in substance abuse, the recommended modification of his VCCA condition will enable the Probation Office to monitor the subject throughout his term of supervision. The subject has consented to the modification of his VCCA condition.

Attached is a signed Waiver of Hearing to Modify Conditions of Supervised Release. The subject waives his right to a hearing and to assistance of counsel. The subject also agrees to the modification of the conditions of supervised release. The

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3

subject's attorney and the U.S. Attorney's Office have been notified of the proposed modification and have no objections to the modification.

Respectfully submitted by,



CARTER A. LEE
U.S. Probation Officer

Approved by:



PETER D. YOSHIHARA
Supervising U.S. Probation Officer

Date: 4/23/2008

THE COURT ORDERS:

The Modification of Conditions as Noted Above
 Other



DAVID ALAN EZRA
U.S. District Judge
4/28/08

Date

United States District Court**District of Hawaii****Waiver of Hearing to Modify Conditions
of Probation/Supervised Release and/or Extend Term of Supervision**

I have been advised and understand that I am entitled by law to a hearing and assistance of counsel before any unfavorable change may be made in my Conditions of Probation and Supervised Release and/or my period of supervision being extended. By "assistance of counsel," I understand that I have the right to be represented at the hearing by counsel of my own choosing if I am able to retain counsel. I also understand that I have the right to request the court to appoint counsel to represent me at such a hearing at no cost to myself if I am not able to retain counsel of my own choosing.

I hereby voluntarily waive my statutory right to a hearing and to assistance of counsel. I also agree to the following modification of my Conditions of Probation and Supervised Release and/or to the proposed extension of my term of supervision:

[] To extend the term of supervision for years, for a total term of years.
[X] To modify the conditions of supervision as follows:

Mandatory Condition: *That the defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of the commencement of supervision and at least two drug tests thereafter but no more than 8 valid drug tests per month during the term of supervision.*

1. That the defendant shall participate in and comply with substance abuse treatment which includes drug and alcohol testing in a program approved by the Probation Office. The defendant is to refrain from the possession and/or use of alcohol while participating in substance abuse treatment.

Witness:

CARTER A. LEE
U.S. Probation Officer

Signed:

FOUINA TOILOLO
Supervised Releasee

Date